

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**CINDY LYNN COLBERT,
F/K/A CINDY LYNN COLAO,**

Plaintiff,

V.

PENNCRO ASSOCIATES, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.: _____

DEFENDANT'S NOTICE OF REMOVAL

Defendant, PENNCRO ASSOCIATES, INC., files this Notice of Removal of Cause No.096-234219-08, styled *Cindy Lynn Colbert, f/k/a Cindy Lynn Colao v. Penncro Associates, Inc.*, from the 96th Judicial District Court of Tarrant County, Texas to the United States District Court for the Northern District of Texas, Fort Worth Division as follows:

A. Background and Facts

1. On or about December 4, 2008, Plaintiff, Cindy Lynn Colbert. ("Plaintiff") filed her Plaintiff's Original Petition against Defendant, Penncro Associates, Inc. in the 96th Judicial District Court of Tarrant County, Texas. A true and correct copy of Plaintiff's Original Petition is attached hereto and incorporated herein by reference as Exhibit "A." In her Original Petition, Plaintiff seeks damages for alleged violations of the Fair Credit Reporting Act (15 U.S.C., § 1681, et. seq.), Chapter 392 of the Texas Finance Code, the Common Law Tort of Unreasonable Collection and, Invasion of Privacy as a result of Penncro's attempt to collect a consumer debt belonging to "Cindy Lynn Colbert, f/k/a Cindy

Lynn Colao” in violation of a discharge order issued by the United States Bankruptcy Court for the Northern District of Texas , Case number 06-34334-blh. The Plaintiff did not include a jury demand in her Original Petition.

2. In accordance with 28 U.S.C., §1446(a), Penncro is also attaching copies of the following pleadings filed in the state court cause of action and attached hereto as: Exhibit “A” - Plaintiff’s Original Petition, filed on December 4, 2008; Exhibit “B” - Citation issued in the state action on December 15, 2008 and which was returned on December 22, 2008; Exhibit “C” - Defendant’s Original Answer, filed by certified mail on December 23, 2008; The parties have not exchanged any discovery at this time.

3. Defendant received Plaintiff’s Original Petition on December 15, 2008 via first class mail to its registered agent. Accordingly, Defendant is filing this notice of removal within the 30-day time period required by 28 U.S.C., §1446(b).

B. Basis for Removal - Federal Question

4. This cause is removable on the basis of federal question jurisdiction. Plaintiff asserts in her Original Petition that Defendant violated various sections of a federal statute, the Fair Credit Reporting Act 15 U.S.C. §1681 *et seq.* (“FCRA”). See Plaintiff’s Original Petition, paragraphs 29, 29, 30, 31, 32, 33, and 34. Therefore, this Court has jurisdiction pursuant to 28 U.S.C. §1441(b) because Plaintiff has asserted claims arising under the laws of the United States.

5. Penncro is the only Defendant made a part of this action.

6. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place where the removed action has been pending.

7. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending.

WHEREFORE, PENNCRO ASSOCIATES, INC. gives notice that Cause No. 096-234219-08 in the 96th Judicial District of Tarrant County, Texas is hereby removed from the state court to the United States District Court for the Northern District of Texas, Fort Worth Division, and Defendant prays for such other and further relief to which it may show itself to be justly entitled to receive.

Respectfully submitted,

BARRON, NEWBURGER, SINSLEY & WIER, PLLC

By: //s// Ed Walton

Ed Walton; SBN: 20828550

Keith Wier; SBN: 21436100

Fed. I.D. 7930

101 Metro Drive, Suite A

Terrell, Texas 75160

Telephone: (972) 499-4833

Facsimile: (972) 563-1598

**ATTORNEYS FOR DEFENDANT,
PENNCRO ASSOCIATES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of January, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

William L. Manchee
MANCHEE & MANCHEE, LLP
12221 Merit Drive, Suite 950
Dallas, Texas 75251

Via Facsimile 972.233.0713

//s// Ed Walton

Ed Walton

CM

CAUSE NO. 003 234219 08

CINDY LYNN COLBERT
F/K/A CINDY LYNN COLAO

Plaintiff

vs.

PENNCRO ASSOCIATES, INC.
Defendant

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

____TH JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

FILED
TARRANT COUNTY
2008 DEC -4 AM 10:43
THOMAS A. WILDER
DISTRICT CLERK

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, CINDY LYNN COLBERT, F/K/A CINDY LYNN COLAO, A/K/A CINDY LYNN MARTIN ("Ms. Colbert" or "Plaintiff"), and complains of Penncro Associates, Inc., (Penncro), the Defendant, and respectfully shows the following:

I. INTRODUCTION

1. This is an action for actual damages, punitive damages, injunctive relief, legal fees and expenses filed by the Plaintiff for the Defendant's violation of the Texas Finance Code, unreasonable collection, invasion of privacy, and for actual and statutory damages for the willful, knowing, and/or negligent violation of Chapter 41, the Consumer Credit Protection Credit Act, of Title 15 (Commerce and Trade) of the United States Code, specifically, 15 U.S.C. §1681 et seq., (known as the "*Fair Credit Reporting Act*", hereafter the "*FCRA*") which relates to the dissemination of consumer credit and other financial information.

II. PARTIES

2. The Plaintiff is a natural person residing in Tarrant County, Texas and she is a "consumer" as defined by Tex. Finance Code §392.001(1) and the FCRA.



3. The Defendant is a foreign limited liability company who may be served by serving its registered agent, CT Corporation System, 305 N. St. Paul St., Dallas, TX 75201.

4. After a reasonable opportunity for further investigation and discovery Ms. Colbert says that she will have evidentiary support to show that Defendant is a furnisher of consumer credit information to Equifax, Inc., Experian Information Systems, Inc., and TransUnion.

III. JURISDICTION AND VENUE

5. The Defendant is a "debt collector" as defined by Tex. Fin. Code § 392.001(6) and the FCRA.

6. Venue is proper in Tarrant County, under Texas Civil Practice & Remedies Code Section 15.017 because the Plaintiff resides in Tarrant County when this claim accrued.

IV. DISCOVERY PLAN

7. Pursuant to Texas Rule of Civil Procedure 190.4, Plaintiff asserts that this suit should be designated level 2 for the purposes of a discovery control plan.

V. FACTUAL ALLEGATIONS

8. Plaintiff filed bankruptcy and was discharged on January 3, 2007 with the Defendant receiving a copy of the discharge order. The case number was 06-34334-bjh7 and it was filed in the Northern District of Texas Bankruptcy Court.

9. The Victoria's Secret asserted a pre-petition claim against Ms. Colbert in an attempt to collect a consumer debt allegedly owed by Plaintiff. The debt was later assigned to Defendant either directly or through World Financial Network National Bank. The debt required Ms. Colbert to pay money arising out of transactions in which money, property, insurance, or services were the subject thereof and the same were primarily for personal, family, or household purposes. The claim was listed on Schedule "F", as a general unsecured claim.

10. On October 5, 2006, Ms. Colbert filed a mailing matrix with the Bankruptcy Court that provided Victoria Secret's correct address.

11. On or about October 5, 2006, the Clerk of the Bankruptcy Court for the Northern District of Texas, mailed out the "Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors and Deadlines" to all creditors, including Victoria Secret, and other parties based on the mailing matrix previously filed the Bankruptcy Court. This mailing constituted formal notice to Victoria's Secret of the above Chapter 7 Bankruptcy. This notice warned all creditors, including the Defendant, in conspicuous language, against violating the automatic stay pursuant to 11 U.S.C. §362. The United States Postal Service did not return the notice sent to Victoria's Secret. The notice was not returned. If the United States Postal Service has not returned the notice, there is a presumption that the addressee received the notice mailed to it by the Clerk of the Bankruptcy Court.

12. On January 3, 2007, the Bankruptcy Court issued an order granting Ms. Colbert a discharge (the said order followed Official Form B18, including the explanatory language contained therein). The order discharged Ms. Colbert from any liability for the pre-petition claim. Included with this order was an explanation of the general injunction prohibiting the Defendant and others holding pre-petition claims from attempting to collect the claims from Ms. Colbert.

13. On January 6, 2007, the order discharging Ms. Colbert was mailed out to all creditors and other parties listed on the mailing matrix previously filed the Bankruptcy Court. This mailing constituted formal notice of Ms. Colbert's discharge and the replacement of the automatic stay with the discharge injunction of 11 U.S.C. §524(a). The order and notice warned all creditors including the Defendant, in conspicuous language, that collection of discharged

debts was prohibited. The notice was not returned. If the United States Postal Service has not returned the notice, there is a presumption that the addressee received the notice mailed to it by the Clerk of the Bankruptcy Court. The Discharge order is attached herein as "Exhibit A" and is incorporated herein by reference.

14. At no time has Victoria's Secret or Defendant objected to or disputed the details of the claim in the October 5, 2006, schedules. At no time during the Chapter 7 case did Ms. Colbert reaffirm the debt. At no time during the Chapter 7 case was the pre-petition claim declared to be non-dischargeable.

15. Following the January 3, 2007 discharge, the Defendant engaged in debt collection activity against Ms. Colbert by accepting the account for collection from Victoria's Secret or World Financial Network National Bank and,

a. On one or more occasions after the discharge, in connection with an effort to collect the discharge debt, Penncro requested and obtained Plaintiff's consumer report from one or more consumer reporting agencies. At the time Defendant requested, obtained and used Plaintiff's consumer report as above described, no permissible purpose as required by Section 1681b of the FCRA existed; and

b. On October 10, 2008 and again on October 13, 2008 Defendant sent written demands for payment in an attempt to collect the discharged debt. The discharge extinguished Defendant's right to collect the account and Plaintiff's legal obligation to pay it. The bankruptcy discharge changed the legal status of the account by making it a non-recourse liability. Once the Defendant received notice of the bankruptcy discharge and the resulting change in the legal status of the debt, the Defendant had no right to attempt to collect it. Copies of the demands for payment are attached hereto as Exhibits "B" and "C."

VI. DAMAGES

16. Plaintiff has or will face credit denials and higher costs in many types of consumer transactions because the Defendant's improper reviews of her credit reports. Furthermore, the attempts to collect her discharged debt, violations of the Texas Finance Code, unreasonable collection and invasions of her privacy caused plaintiff to suffer embarrassment, mental anguish, inconvenience, and other pecuniary and non-pecuniary damages.

17. After a reasonable opportunity for further investigation and discovery, says that she will have evidentiary support to show that the FICO[®] scoring models continue to penalize the "debtors" such as Plaintiff for illegal and defamatory reporting and credit pulls such as the Defendant's actions that are the subject of this complaint.

18. Due to Defendant's conduct, Plaintiff was forced to hire counsel and her damages include reasonable attorney's fees incurred in prosecuting this claim.

19. The violations of the Tex. Fin. Code §§ 391.002, Tex. Fin. Code § 392.301(a)(8), Tex. Fin. Code § 392.304(a)(8), and Tex. Fin. Code § 392.304(a)(19) are ongoing in nature, Defendant is liable for any and all future harm suffered by Plaintiff as a result of Defendant's conduct.

VIII. GROUNDS FOR RELIEF - COUNT 1

TEXAS FINANCE CODE

20. Ms. Colbert repeats, re-alleges, and incorporates by reference paragraphs 7 through 19.

21. The Defendant's violations of the Texas Finance Code, include, but are not limited to the following:

22. In violation of Tex. Fin. Code § 392.304(a)(8), the Defendant misrepresented the character of a consumer debt; and/or

23. In violation of Tex. Fin. Code § 392.304(a)(19), the Defendant used false representations or deceptive means to collect a debt.

24. Tex. Fin. Code § 392.301(a)(8) prohibits the Defendant from taking an action prohibited by law.

25. Under Tex. Fin. Code Ann. § 392.403, the said violations renders the Defendant liable to Plaintiff for actual damages, statutory damages, for injunctive relief, costs, and, reasonable attorney's fees.

26. The above Texas Finance Code provisions are not preempted by the Fair Credit Reporting Act, *Maloney v. LVNV LLC*, Slip Copy, 2006 WL 3006484, N.D. Tex., October 20, 2006 (NO.CIV.A.3:06-CV-0452).

XI. GROUNDS FOR RELIEF - COUNT IV.

COMMON LAW TORT OF UNREASONABLE COLLECTION

27. Ms. Colbert repeats, re-alleges, and incorporates by reference paragraphs 7 through 19. The above described debt collection efforts of Defendant constitutes a pattern of harassment that is willful, wanton, malicious, and intended to inflict mental anguish.

XII. GROUNDS FOR RELIEF COUNT V

VIOLATION OF THE FCRA

28 Plaintiff restates and reiterates herein all previous paragraphs

29. The actions of Penncro as above described violated the FCRA in that it requested, obtained and used Plaintiff's consumer report without a permissible purpose.

30. Pursuant to 15 U.S.C. §1681o, any person who is negligent in failing to comply with any requirement imposed under the FCRA with respect to any consumer is liable to that consumer in an amount equal to the sum of (i) any actual damages sustained by the consumer as a result of the failure and (ii) in the case of any successful action to enforce any liability under 15 U.S.C. §1681o, the costs of the action together with reasonable attorneys' fees.

31 Pursuant to 15 U.S.C. §1681n, any person who willfully fails to comply with any requirement imposed under the FCRA with respect to any consumer is liable to that consumer in an amount equal to the sum of (i) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100.00 and not more than \$1,000.00; (ii) such amount of punitive damages as the court may allow; and (iii) in the case of any successful action to enforce any liability under 15 U.S.C. §1681n, the costs of the action together with reasonable attorneys' fees.

32. Pursuant to 15 U.S.C. §1681q, it is unlawful for any person to knowingly and wilfully obtain information on a consumer from a consumer reporting agency under false pretenses.

33. The Defendant's failure to comply with the FCRA as above described was willful, as contemplated under 15 U.S.C. §1681n of the FCRA, entitling Plaintiff to the remedies set forth therein. In addition, defendants actions constituted the knowing and willful acquisition of information on a consumer from a consumer reporting agency under false pretenses, entitling the Plaintiff to the remedies permitted under law for violation thereof.

34. In the alternative, the Defendant's failure to comply with the FCRA as above described was negligent, as contemplated under 15 U.S.C. §1681o of the FCRA, entitling Plaintiff to the remedies set forth therein.

XIII. GROUNDS FOR RELIEF COUNT VI

INVASION OF PRIVACY

Plaintiff restates and reiterates herein all previous paragraphs.

Penncro's conduct, as described herein, constituted an invasion of Plaintiff's solitude and seclusion which was offensive to any person of ordinary sensibilities. Said invasion was an unreasonable intrusion into the private life and matters of Plaintiff, and has damaged Plaintiff.

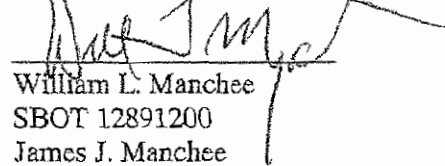
Penncro's conduct, as described herein, constitutes an unlawful and actionable invasion of Plaintiff's privacy, which conduct has damaged Plaintiff, entitling Plaintiff to an award of damages, compensatory and punitive, against Asset.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Ms. Colbert, prays that the Court will:

- A. Enter judgment in favor of Ms. Colbert and against Penncro for statutory damages, actual damages, costs, pre and post judgment interest, and reasonable attorneys' fees as provided by Tex. Fin. Code Ann. § 392.403;
- B. Award punitive damage not less than three times the actual damages, including attorneys' fees, costs and expenses awarded in this case;
- C. Declare that the Defendant's actions violate the Texas Finance Code;
- D. Enjoin the Defendant's actions which violate the Texas Finance Code; Award to plaintiff, and for the benefit of the undersigned attorneys, all of the attorneys' fees, costs and expenses incurred in representing in these matters;
- E. Award plaintiff her damages under the FCRA.
- F. Award plaintiff her damages for invasion of privacy.
- G. Award plaintiff pre-judgment interest as allowed by law.

H. Grant such other and further relief, in equity or in law to which Ms. Colbert might show herself justly entitled.

Respectfully submitted,



William L. Manchee

SBOT 12891200

James J. Manchee

State Bar Number 00796988

Manchee & Manchee, LLP
12221 Merit Drive, Suite 950
Dallas, Texas 75251
(972) 960-2240 (telephone)
972-233-0713 (fax)

THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

COPY

CITATION

Cause No. 096-234219-08

CINDY LYNN COLBERT

VS. PENNCRO ASSOCIATES, INC.

TO: PENNCRO ASSOCIATES INC.

B/S CT CORPORATION SYSTEM
305 N ST PAUL ST
DALLAS, TX 75201-

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 96th District Court in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

CINDY LYNN COLBERT

Filed in said Court on December 4th, 2008 Against
PENNCRO ASSOCIATES INC.

For suit, said suit being numbered 096-234219-08 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

WILLIAM L. MANCHEE
Attorney for CINDY LYNN COLBERT Phone No. (972)960-2240
Address 12221 MERIT DR, STE 950 DALLAS, TX 75251

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas, given under my hand and the seal of said Court, at office in the City of Fort Worth, this the December 4th, 2008

By JUDITH CHICO Deputy

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Thomas A. Wilder, Tarrant County District Clerk
401 W BELKNAP
Fort Worth, Texas 76196-0402

OFFICER'S RETURN

Received this Citation on the _____ day of _____, _____ at _____ o'clock _____ M; and executed at _____ within the county of _____, State of _____ at _____ o'clock _____ M on the _____ day of _____, _____ by mailing to the within named _____

a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION having first endorsed on same the date of delivery.

Deputy/Constable/Sheriff: _____

County of _____ State of _____

By _____ Deputy

Fees \$ _____

(Must be verified if served outside the State of Texas)

State of _____ County of _____

Signed and sworn to by the said _____ before me this _____ day of _____, _____ to certify which witness my hand and seal of office

(Seal)

County of _____, State of _____

EXHIBIT

B

CAUSE NO. 096-23421-9-08

CINDY LYNN COLBERT,
F/K/A CINDY LYNN COLAO

Plaintiff,

V.

PENNCRO ASSOCIATES, INC.,

Defendants.

§ IN THE DISTRICT COURT

§

§

§

§

§

§

§

§

§

TARRANT COUNTY, TEXAS

96TH JUDICIAL DISTRICT

**DEFENDANT PENNCRO ASSOCIATES, INC.'S
ORIGINAL ANSWER AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, PENNCRO ASSOCIATES, INC., Defendant in the above-entitled and numbered cause, and in answer to Plaintiff's Original Petition would respectfully show unto the Court as follows:

1. Defendant denies each and every, all and singular, the allegations in Plaintiff's Original Petition, says that the allegations therein are not true, either in whole or in part, and demands strict proof thereof.

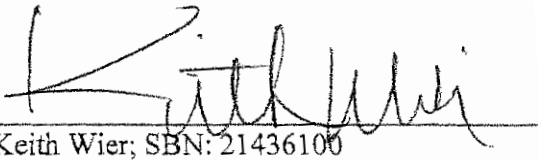
2. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff is requested to disclose within 30 days after service of this request, the information or material described in Rule 194.2.

WHEREFORE, PREMISES CONSIDERED, Defendant PENNCRO ASSOCIATES, INC. prays that Plaintiff take nothing by reason of this suit, that Defendant be discharged and go hence without costs, without day, and for all such other and further relief, both general and special, at law and in equity, to which this Defendant may show itself justly entitled.



Respectfully submitted,

BARRON, NEWBURGER, SINSLEY & WIER, PLLC

By: 

Keith Wier; SBN: 21436100
Capital One Plaza
5718 Westheimer, Suite 1755
Houston, Texas 77057
(713) 335-0141 Telephone
(713) 335-0150 Facsimile

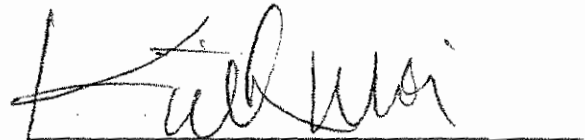
**ATTORNEYS FOR DEFENDANT
PENNCRO ASSOCIATES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been forwarded to all counsel of record via facsimile, and/or by certified mail, return receipt requested on this the 23rd day of December, 2008, as follows:

William L. Manchee
MANCHEE & MANCHEE, LLP
12221 Merit Drive, Suite 950
Dallas, Texas 75251

Via Facsimile 972.233.0713


Keith Wier

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**CINDY LYNN COLBERT,
F/K/A CINDY LYNN COLAO,**

Plaintiff,

V.

PENNCRO ASSOCIATES, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.: _____

**INDEX OF DOCUMENTS FILED
WITH NOTICE OF REMOVAL OF ACTION**

	<u>Name of Document</u>	<u>Date filed</u>
(A)	Plaintiff's Original Petition	12/4/08
(B)	Citation	12/22/08
(C)	Defendant's Original Answer	12/23/08

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**CINDY LYNN COLBERT,
F/K/A CINDY LYNN COLAO,**

Plaintiff,

V.

PENNCRO ASSOCIATES, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.: _____

LIST OF COUNSEL OF RECORD

1. William L. Manchee; SBN: 12891200
MANCHEE & MANCHEE, LLP
12221 Merit Drive, Suite 950
Dallas, Texas 75251
(972) 960-2240 Telephone
(972) 233-0713 Facsimile

**ATTORNEYS FOR PLAINTIFF,
CINDY LYNN COLBERT,
F/K/A CINDY LYNN COLAO**

2. Ed Walton; SBN: 20828550
Keith Wier; SBN: 21436100
Fed. I.D. 7930
BARRON, NEWBURGER, SINSLEY & WIER, P.L.L.C.
101 Metro Drive, Suite A
Terrell, Texas 75160
(972) 499-4833 Telephone
(972) 563-1598 Facsimile

**ATTORNEYS FOR DEFENDANT,
PENNCRO ASSOCIATES, INC.**

Respectfully submitted,

BARRON, NEWBURGER, SINSLEY & WIER, P.L.L.C.

//s// Ed Walton

Ed Walton; SBN: 2082855

Keith Wier; SBN: 21436100

101 Metro Drive, Suite A

Terrell, Texas 75160

Telephone: (972) 499-4833

Facsimile: (972) 563-1598

**ATTORNEYS FOR DEFENDANT,
PENNCRO ASSOCIATES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of January, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

William L. Manchee
MANCHEE & MANCHEE, LLP
12221 Merit Drive, Suite 950
Dallas, Texas 75251

//s// Ed Walton

Ed Walton

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

CINDY LYNN COLBERT F/K/A CINDY LYNN COLAO

DEFENDANTS

PENNCRO ASSOCIATES, INC.

(b) County of Residence of First Listed Plaintiff Tarrant

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Buck

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

William L. Manchee, Manchee & Manchee, 12221 Merit Dr., Ste. 950, Dallas, TX 75251 - (972) 960-2240

Attorneys (If Known)

Ed Walton, Barron, Newburger, Sinsley & Wier, PLLC, 101 Metro Dr., Ste. A, Terrell, TX 75160 - (972) 499-4833

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Maudanus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1681, et. seq.

Brief description of cause:

Alleged violations of the Fair Credit Reporting Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/14/2009

SIGNATURE OF ATTORNEY OF RECORD

//s/ Ed Walton

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

United States District Court**Northern District of Texas****Supplemental Civil Cover Sheet For Cases Removed
From State Court**

This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk=s Office. Additional sheets may be used as necessary.

1. State Court Information:

Please identify the court from which the case is being removed and specify the number assigned to the case in that court.

<u>Court</u>	<u>Case Number</u>
96 th Judicial District Tarrant County, Texas	096-23421-9-08

2. Style of the Case:

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code.)

<u>Party and Party Type</u>	<u>Attorney(s)</u>
Cindy Lynn Colbert f/k/a Cindy Lynn Colao	William L. Manchee Manchee & Manchee 12221 Merit Drive, Suite 950 Dallas, Texas 75251 Tel: (972) 960-2240
Penncro Associates, Inc.	Ed Walton Barron, Newburger, Sinsley & Wier, PLLC 101 Metro Drive, Suite A Terrell, Texas 75160 Tel: (713) 335-0141

3. Jury Demand:

Was a Jury Demand made in State Court? • Yes • No

If "Yes," by which party and on what date?

Party

Date

4. **Answer:**

Was an Answer made in State Court?

• Yes • No

If "Yes," by which party and on what date?

Penncro Associates, Inc.

Party

12/23/08

Date

5. **Unserved Parties:**

The following parties have not been served at the time this case was removed:

Party

Reason(s) for No Service

6. **Nonsuited, Dismissed or Terminated Parties:**

Please indicate any changes from the style on the State Court papers and the reason for that change:

Party

Reason

7. **Claims of the Parties:**

The filing party submits the following summary of the remaining claims of each party in this litigation:

Party

Claim(s)

Plaintiff, Cindy Lynn Colbert
f/k/a Cindy Lynn Calao

Damaged for alleged violations of the
Fair Credit Reporting Act (15 USC
Sect. 1681, et. seq)